

**IN THE UNITED STATES DISTRICT COURT  
THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

<b>Don Galusha and Leonard Ward,</b>	)	
	)	<b>Case No. 3:07-1179</b>
<b>Plaintiffs,</b>	)	
	)	<b>Judge Trauger</b>
<b>v.</b>	)	
	)	
<b>Michael J. Austin,</b>	)	
	)	
<b>Defendant.</b>	)	

**ENTRY OF DEFAULT**

Pending is Plaintiffs' Motion for Entry of Default pursuant to Rule 55(a) of the Federal Rules of Civil Procedure (FRCP)(Docket Entry No. 8). A review of the record reveals that Defendant was served on December 6, 2007. Defendant refused acceptance of the certified mail delivery including the service packet on December 10, 2007 as noted on the return receipt. Service was thereby completed pursuant to FRCP 4 and Tenn. R. Civ. P. 4.04(11). Despite having been served, the Defendant has failed to answer or otherwise respond within the time period permitted by law. In addition, Plaintiffs have provided an affidavit of military service as required by Servicemembers Civil Relief Act of 2003 (50 App. U.S.C. 501 et seq.). As such, the entry of default is appropriate.

Accordingly, for the reasons stated above, the Clerk hereby enters default pursuant to FRCP 55(a) against Defendant Michael J. Austin. Default having been entered, the Clerk will consider Plaintiffs' Motion for Default Judgment pursuant to FRCP55(b)(1). A decision on that motion will be made on or about March 11, 2008.

s/ Keith Throckmorton  
Keith Throckmorton  
Clerk of Court